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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 Shakopee Mdewakanton Sioux Community, a  
Federally Recognized Indian Tribe,

11 Plaintiff,

12 v.

13 FBCV, LLC, a Nevada Limited Liability  
14 Company; and Kenneth L. Templeton, Trustee  
of the Templeton Gaming Trust, a Nevada  
Trust,

15 Defendants.  
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Case No. 2:10-cv-00010-JCM-RJJ

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23 **STIPULATED PROTECTIVE ORDER**  
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2           **IT IS HEREBY STIPULATED AND AGREED** by and between the parties  
3 to the above captioned action, acting through their authorized attorneys of record, that  
4 the Court may enter an order containing the following provisions, pursuant to Rule  
5 26(c) of the Federal Rules of Civil Procedure:

6           1.     Any person or entity (the "Producing Party") producing materials in  
7 discovery in this matter ("Produced Materials") may designate as  
8 "CONFIDENTIAL" pursuant to this Order any Produced Material that the Producing  
9 Party in good faith believes contains or discloses confidential information, including  
10 financial data, technical information, trade secret or other nonpublic research,  
11 development or commercial information, and/or other information required by law or  
12 agreement to be kept confidential. All such designated material, all copies, excerpts  
13 and summaries thereof, and all information contained therein or derived therefrom is  
14 deemed "Confidential Material" for the purposes of this Stipulated Protective Order.

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16           2.     Confidential materials related to the following subjects may be further  
17 designated and marked as "CONFIDENTIAL - ATTORNEYS' EYES ONLY",  
18 including, but not limited to, the following:  
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- 20                   (a)     design specifications or drawings for products or features  
21                             (unless such materials have been made available to third parties  
22                             without any obligation of confidentiality);  
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- (b) material disclosing confidential information concerning products to the extent that such information is not yet publicly available and has not yet been announced;
- (c) information concerning future market plans or market directions for existing or new products, including but not limited to competitive analyses;
- (d) non-public financial information, including but not limited to costs, margins, profitability and expenses with respect to any product or feature; and
- (e) confidential information regarding contractual relations, including without limitation, licenses and settlement agreements.

3. The "CONFIDENTIAL – ATTORNEYS' EYES ONLY" designation is intended to apply to a discrete group of extremely confidential materials.

4. The designation of information as CONFIDENTIAL or CONFIDENTIAL - ATTORNEYS' EYES ONLY for purposes of this Order shall be made in the following manner:

- (a) with regard to written material (excluding transcripts of depositions or other pre-hearing testimony), a legend shall be affixed to each page substantially in the form,  
"CONFIDENTIAL - Subject to Protective Order" or

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2 “CONFIDENTIAL” or “CONFIDENTIAL - ATTORNEYS’  
3 EYES ONLY - Subject to Protective Order” or  
4 “CONFIDENTIAL - ATTORNEYS’ EYES ONLY”; and

5 (b) with regard to non-written material, such as recordings,  
6 magnetic media, photographs and things, a legend substantially  
7 in the above form shall be affixed to the material, or a container  
8 for it, in any suitable manner.  
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10 5. All deposition exhibits and testimony of the parties, and of any attorneys  
11 for the parties, in this Action shall initially be deemed CONFIDENTIAL (except to the  
12 extent designated CONFIDENTIAL - ATTORNEYS’ EYES ONLY in accordance with  
13 this Order) and treated as such in accordance with this Stipulated Protective Order.  
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15 6. No objection or instruction not to answer shall be interposed at a  
16 deposition if that answer would elicit CONFIDENTIAL or CONFIDENTIAL -  
17 ATTORNEYS’ EYES ONLY material. Instead, when a question to be posed or an  
18 answer will disclose CONFIDENTIAL or CONFIDENTIAL - ATTORNEYS’ EYES  
19 ONLY material, the deposition will proceed on the following basis: prior to posing  
20 the question or answering the question, all persons present shall be advised of the  
21 terms and conditions of the Stipulated Protective Order and, at the request of the  
22 disclosing person, all persons not authorized to receive CONFIDENTIAL or  
23 CONFIDENTIAL—ATTORNEYS’ EYES ONLY materials shall leave the room  
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1 during the time in which the CONFIDENTIAL or CONFIDENTIAL—  
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3 ATTORNEYS' EYES ONLY materials are disclosed or discussed.

4 7. Information designated as CONFIDENTIAL or CONFIDENTIAL—  
5 ATTORNEYS' EYES ONLY during a deposition shall lose its confidential status 30  
6 days following receipt of the transcript by counsel for the parties, unless within that  
7 30 day period, the party designating information disclosed during the deposition as  
8 CONFIDENTIAL or CONFIDENTIAL—ATTORNEYS' EYES ONLY notifies all  
9 parties in writing of the specific pages and lines of the transcript that are to be treated  
10 CONFIDENTIAL or CONFIDENTIAL—ATTORNEYS' EYES ONLY thereafter.  
11 There will be no dissemination of deposition transcripts until the time for designation  
12 has passed.  
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14 8. When any confidential information is included in an authorized  
15 transcript of a deposition or exhibits thereto, arrangements shall be made with the  
16 Court reporter taking the deposition to bind such confidential portions separately and  
17 label them "[supplier's name]", "CONFIDENTIAL - Subject to Protective Order" or  
18 "CONFIDENTIAL - Attorneys' Eyes Only - Subject to Protective Order"; Before a  
19 Court reporter receives any such information, he or she shall have first read this Order  
20 and shall have agreed in writing to be bound by the terms thereof. Alternatively, he  
21 or she shall sign the agreement included as Attachment A hereto. Copies of each such  
22 signed agreement shall be provided to the supplier of such confidential information.  
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2           9.     When confidential information is presented, quoted or referenced in  
3 any deposition, hearing, trial or other proceeding, counsel for the offering party shall  
4 make arrangements or, when appropriate, request the Court to make arrangements to  
5 ensure that only persons entitled to such information under the Stipulated Protective  
6 Order are present during such presentation, quotation or reference.

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8           10.    For purposes of producing original files, records and other documents  
9 or material for inspection, the disclosing person may elect to refrain from designating  
10 specific documents as "CONFIDENTIAL" or "CONFIDENTIAL -- ATTORNEYS'  
11 EYES ONLY" until after the inspecting party has selected specific documents and/or  
12 materials for copying. In such event, the disclosing person shall inform the other  
13 party prior to producing the documents or material for production that all such  
14 documents and material should be considered CONFIDENTIAL or CONFIDENTIAL  
15 - ATTORNEYS' EYES ONLY for purposes of the inspection. Thereafter, upon  
16 selection of specified documents and material for copying by the inspecting party but  
17 before the production of such copies, the disclosing person shall designate any  
18 CONFIDENTIAL or CONFIDENTIAL - ATTORNEYS' EYES ONLY discovery  
19 material thus produced in accordance with the Stipulated Protective Order.  
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22           11.    A disclosing person may redact from discovery material any  
23 information that it considers to be CONFIDENTIAL or CONFIDENTIAL -  
24 ATTORNEYS' EYES ONLY but not relevant to the subject matter of the Action.  
25 Any discovery material so redacted shall have "REDACTED" written or stamped on  
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2 each page from which material or information was redacted. Upon the request of any  
3 party to this Action, the disclosing person shall promptly produce a log describing the  
4 nature of the redacted information.

5 12. All written discovery requests and responses thereto which contain  
6 information considered to be confidential shall be individually identified and  
7 designated in accordance with the Stipulated and Protective Order, and shall contain  
8 the appropriate written notice upon service thereof.  
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10 13. Except as agreed by the Producing Party or as otherwise provided  
11 herein, information designated as CONFIDENTIAL and CONFIDENTIAL -  
12 ATTORNEYS' EYES ONLY, and all copies, excerpts and summaries thereof and  
13 material containing information derived therefrom, shall be used solely for purposes  
14 of this litigation and shall not be used for any other purpose, including, without  
15 limitation, any business or commercial purpose.  
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17 14. Discovery material and information designated as CONFIDENTIAL  
18 may be disclosed, summarized, described, revealed or otherwise made available in  
19 whole or in part only in accordance with the terms of this Order, and only to the  
20 following persons:  
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- 22 (a) outside counsel for the parties in this matter who have a need to know  
23 such information to fulfill their duties and responsibilities in connection  
24 with this litigation; regular and temporary employees of such outside  
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counsel (including support personnel) to the extent necessary to assist such counsel in the conduct of this litigation;

- (b) in-house counsel for the parties;
- (c) the parties, and current employees of the parties, assisting counsel for the parties in the conduct of this litigation;
- (d) independent experts and consultants and their staff (excluding current employees of the parties) retained to assist counsel for the parties in the conduct of this litigation;
- (e) witnesses or potential witnesses in this matter (other than current employees of the parties) and their counsel, provided that the document or non-written material was authored by, created by, received by or is otherwise established to have been known to the witness or potential witness;
- (f) the Court;
- (g) court reporters;
- (h) photocopy services;
- (i) graphics or design consultants retained to prepare demonstrative or other exhibits for use in this matter;
- (j) non-technical trial or hearing consultants;
- (k) document imaging and database services and consultants retained to set up, maintain and/or operate electronic databases; and



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2 (l) others as to whom the Producing Party has given written consent.

3 15. Confidential Material designated "CONFIDENTIAL- ATTORNEYS'  
4 EYES ONLY" may be disclosed, summarized and described, revealed or otherwise  
5 made available in whole or in part only in accordance with the terms of this Order,  
6 and only to the persons described in Paragraphs 14(a), 14(b) 14(d), 14(e), 14(f), 14(g),  
7 14(h) 14(i), 14(j), 14(k) and 14(l).  
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9 16. This Order shall not apply to (A) a Producing Party's use of its own  
10 CONFIDENTIAL or CONFIDENTIAL - ATTORNEYS' EYES ONLY Material for  
11 any purpose or (B) a Producing Party's use of documents or other information  
12 developed or obtained independently of discovery in this matter for any purpose.  
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14 17. This Order shall not restrict an attorney who is a qualified recipient  
15 under the terms of Paragraph 14(a) from rendering advice to his or her client with  
16 respect to this matter, and in the course thereof, from generally relying upon his or her  
17 examination of CONFIDENTIAL or CONFIDENTIAL - ATTORNEYS' EYES  
18 ONLY Material. In rendering such advice or in otherwise communicating with the  
19 client, the attorney shall not disclose directly or indirectly the specific content of any  
20 CONFIDENTIAL or CONFIDENTIAL - ATTORNEYS' EYES ONLY Material of  
21 another person or party where such disclosure would not otherwise be permitted  
22 under the terms of this Order.  
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24 18. The recipient of any documents, material or information designated  
25 CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS' EYES ONLY provided  
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2 pursuant to the Stipulated Protective Order shall exercise due and proper care with  
3 respect to the storage, custody and use of all such documents, material or information.

4           19. Every person to whom CONFIDENTIAL or CONFIDENTIAL -  
5 ATTORNEYS' EYES ONLY Material or information contained therein is to be  
6 disclosed, summarized, described, characterized, or otherwise communicated or made  
7 available in whole or in part first shall be advised that the material or information is  
8 being disclosed pursuant and subject to the terms of this Order. Furthermore, all  
9 persons listed in Paragraphs 14(b)-(e) and (i)-(l) to whom disclosure of  
10 CONFIDENTIAL or CONFIDENTIAL - ATTORNEYS' EYES ONLY Material is  
11 intended shall confirm their understanding and agreement to abide by the terms of this  
12 Order by signing a copy of the acknowledgement attached as Attachment B.  
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14           20. Nothing in this Order shall be construed to prohibit a supplying party  
15 from seeking relief from an inadvertent and/or unintentional disclosure of documents.  
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17           21. If the Court orders, or if the supplier and all parties agree, that access  
18 to, or dissemination of, information designated as CONFIDENTIAL or  
19 CONFIDENTIAL-ATTORNEYS' EYES ONLY shall be made to persons not  
20 included in Paragraph 14 above, such matter shall only be accessible to, or  
21 disseminated to, such persons based on the conditions pertaining to, and obligations  
22 arising from, this Order, and such persons shall be considered subject to it unless the  
23 Court finds that the information is not CONFIDENTIAL or CONFIDENTIAL-  
24 ATTORNEYS' EYES ONLY information as defined in Paragraphs 1 and 2 hereof.  
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2 22. If any party files or lodges with the Court any CONFIDENTIAL or  
3 CONFIDENTIAL-ATTORNEYS' EYES ONLY document, written discovery  
4 response, deposition or information which is so specifically marked or designated and  
5 submitted in accordance this Order, or any document containing such information,  
6 each and every such document and information shall be filed and/or lodged with the  
7 Court under seal and shall be maintained under seal by this Court. No party shall file  
8 and/or lodge with the Court any motion, brief or other paper containing or otherwise  
9 exhibiting any specifically marked or designated confidential information unless said  
10 motion, brief or other paper is filed in sealed envelopes or other appropriate sealed  
11 containers on which shall be endorsed with the caption in this action, an indication of  
12 the nature of the contents of such sealed container, the words CONFIDENTIAL--  
13 Subject to Protective Order or CONFIDENTIAL ATTORNEYS' EYES ONLY --  
14 Subject to Protective Order and a statement in substantially the following form:

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17 **FILED UNDER SEAL PURSUANT TO ORDER OF THE UNITED STATES**  
18 **DISTRICT COURT FOR THE DISTRICT OF NEVADA**

19 This envelope contains confidential documents which are filed in this  
20 case by [name of party]. It is not to be opened except by the Court nor  
21 are the contents thereof to be displayed or revealed except by order of  
22 the Court or by stipulation of the parties.  
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2           23.    If a party to this order who is a recipient of any information designated  
3 as CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS' EYES ONLY and  
4 submitted in accordance with this Order disagrees with respect to such a designation,  
5 in full or in part, it shall notify the supplier in writing, and they will thereupon confer  
6 as to the status of the subject information proffered within the context of this order. If  
7 prior to, or at the time of, such a conference, the supplier withdraws its designation of  
8 such information as being subject to this Order, but nonetheless submits such  
9 information for purposes of the suit, such supplier shall express the withdrawal in  
10 writing and shall serve such withdrawal upon all parties. If the recipient and supplier  
11 are unable to concur upon the status of the subject information submitted as  
12 CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS' EYES ONLY information  
13 within ten days from the date of notification of such disagreement, any party to this  
14 Order may raise the issue of the designation of such a status to the Court, and the  
15 Court may raise the issue of designation of the confidential status without any request  
16 from a party. Upon notice that such confidential status of information is at issue, the  
17 party to the suit which submitted the information and designated it as  
18 CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS' EYES ONLY shall have the  
19 burden of proving such confidential status.  
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21           24.    If CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS' EYES  
22 ONLY information submitted in accordance with this Order is disclosed to any person  
23 other than in the manner authorized by this Protective Order, the party responsible for  
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1 the disclosure must immediately bring all pertinent facts relating to such disclosure to  
2 the attention of the supplier and, without prejudice to other rights and remedies of the  
3 supplier, make every effort to prevent further disclosure by it or by the person who  
4 was the recipient of such information.  
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6           25. The inadvertent or unintentional disclosure by a disclosing person of  
7 discovery material considered by that person to be CONFIDENTIAL or  
8 CONFIDENTIAL-ATTORNEYS' EYES ONLY shall not be deemed a waiver in  
9 whole or in part of that person's claim of confidentiality, either as to the specific  
10 document, material or information disclosed or as to any other document, material or  
11 information disclosed or as to any other document, material or information relating  
12 thereof. Such inadvertently or unintentionally disclosed discovery material shall be  
13 designated as CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS' EYES ONLY  
14 in conformance with Paragraphs 1 or 2 hereof as soon as reasonably possible after the  
15 disclosing person becomes aware of the erroneous disclosure and upon written notice  
16 to all parties of such later designation shall thereafter be treated as CONFIDENTIAL  
17 or CONFIDENTIAL-ATTORNEYS' EYES ONLY. Disclosure of such discovery  
18 material by any person prior to the later CONFIDENTIAL or CONFIDENTIAL-  
19 ATTORNEYS' EYES ONLY designation shall not be deemed a violation of the  
20 Stipulated Protective Order.  
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22           26. Upon final disposition of this litigation, each party that is subject to this  
23 Order shall (A) return to the supplier all items containing CONFIDENTIAL or  
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1 CONFIDENTIAL-ATTORNEYS' EYES ONLY information submitted in  
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3 accordance with this Order, including all copies of such items which may have been  
4 made, and (B) destroy all copies containing notes or other attorney's work product  
5 that may have been placed thereon by counsel for the receiving party. Confirmation  
6 of the destruction of all such copies containing CONFIDENTIAL or  
7 CONFIDENTIAL-ATTORNEYS' EYES ONLY information and such notes or other  
8 attorney's work product, shall be set forth in writing within 60 days after final  
9 disposition of the litigation in a letter sent to the supplier of such items. Receipt of  
10 material returned to the supplier shall be acknowledged in writing.  
11

12 27. If any CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS' EYES  
13 ONLY information which is supplied in accordance with this Order is supplied by a  
14 non-party to this suit, such a non-party shall be considered a "supplier" within the  
15 meaning of that term as it is used in the context of this Order.  
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17 28. At or before the final disposition of this suit, copies of  
18 CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS' EYES ONLY information  
19 that was in the hands of consultants or experts must be retrieved and disposed of as  
20 under Paragraph 26, above.  
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22 29. Nothing in this Stipulated Protective Order shall require disclosure of  
23 materials a party contends are protected from disclosure by the attorney-client  
24 privilege or the attorney work-product doctrine. This provision shall not, however,  
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2 be construed to preclude any party from moving the Court for an order directing the  
3 disclosure of such materials.


4         30. The provisions of this Stipulated Protective Order, insofar as they  
5 restrict the disclosure and use of discovery material designated CONFIDENTIAL or  
6 CONFIDENTIAL-ATTORNEYS' EYES ONLY or information derived therefrom,  
7 shall continue to be binding following the conclusion of this Action, unless written  
8 permission to the contrary is obtained from the disclosing person or the Court  
9 otherwise orders.  
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11         31. The Stipulated Protective Order shall not prevent a party from applying  
12 to the Court for relief therefrom, or from applying to the Court for further or  
13 additional protective orders, or from agreeing between themselves to modification of  
14 this Protective Order.  
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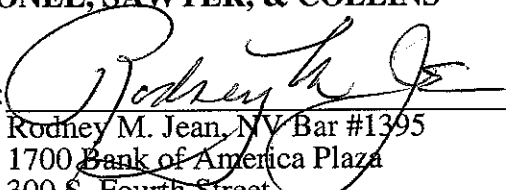
16         32. Upon notice, the Court may make such further order and directions as it  
17 deems appropriate or necessary concerning the subject matter of this Stipulated  
18 Protective Order including, without limitation, orders modifying, extending, limiting  
19 or vacating any or all of the provisions herein contained.  
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2 Dated this 15<sup>th</sup> day of July, 2010.

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4 **MARQUIS & AURBACH**

5 By:   
6 Phillip S. Aurbach, Esq.  
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12 Attorneys for Defendants

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Attorneys for Plaintiff

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15 IT IS SO ORDERED this 20<sup>th</sup> day of July, 2010.

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18 UNITED STATES MAGISTRATE JUDGE  
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